

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 936 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  2. To be referred to the Reporter or not? : YES
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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PAYAL S PADHIAR

Versus

GENERAL MANAGER  
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Appearance:

MR MH RATHOD for Petitioner  
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CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 21/02/2000

ORAL JUDGEMENT

#. The petitioner challenges the decision of the respondent of not opening the tender form submitted by the petitioner in pursuance to the tender notice dtd.6.1.2000. According to the petitioner the tenders were opened by the Tender Opening Committee headed by the Divisional Engineer ( Administration ) on 7.2.2000 and

except the petitioner's tender all the other tenders were opened for placing them before the General Manager, Telecom Office for appropriate decision. According to the petitioner, the Tender Opening Committee decided not to open the tender of the petitioner only on the ground that the tender proposal submitted by the petitioner was not sealed with wax. The petitioner had objected to such decision but it is alleged that the objection was overruled.

#. It is strongly argued by the learned counsel for the petitioner that though the reason given to the petitioner was that the tender was not sealed, the petitioner had in fact sealed the tender by gum and stapler pin. It was argued that the tender was given in a closed envelope and therefore it was sealed. According to the learned counsel the expression 'sealed tender' would mean a tender that is enclosed in a cover which by application of gum and staple pin. It was also argued that there was no specific indication in the advertisement requiring any wax seal to be affixed while submitting the tender. It was therefore contended that the impugned action of the Tender Committee was arbitrary and violative of the fundamental right of the petitioner guaranteed by Article 14 of the Constitution of India. The petitioner's counsel has placed a copy of the tender notice on record which shows that the sealed tenders were invited by the GMTD, Palanpur on behalf of the President of India for taking up work of sweeping, wiping and cleaning of floors and toilets, cleaning the compound within and around telecom premises, as mentioned therein.

3. According to the petitioner the tender was placed in a cover which was sealed by applying gum and stapler pin. The word 'seal' particularly in context of invitation of sealed tender cannot be so loosely understood. 'Seal' would mean a piece of wax, lead, paper etc. with a stamped design, attached to a document as a guarantee of authenticity and also a similar materials attached to a receptacle, envelope, etc., affording security by having to be broken to allow access to the contents ( see concise oxford dictionary ). The sealed tender obviously therefore would mean that the tender is placed in an envelope or package or other receptacle which is attached with a piece of wax etc., affording security, so that it cannot be easily opened without tampering with the material so attached. An envelop which is closed by applying gum can always be steam opened and cannot be said to be sealed in the context of the word used in the expression "sealed

tender" used while inviting the offers. In this view of the matter, there is no substance in the contention raised on behalf of the petitioner. It cannot be said that the tender committee acted arbitrarily in refusing to open the tender of the petitioner on the ground that it was not duly sealed. An application has been made to the General Manager on 10.2.2000, as per copy at Annexure-B to the petition. The learned counsel for the petitioner states that no order has been passed on that application so far. It would be for the General Manager to consider and make necessary order on that application. So far this petition is concerned, no relief as prayed for can be granted to the petitioner. The petition is therefore rejected.

kks